

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Part 11 of the Commission's Rules)	PS Docket No. 15-94
Regarding the Emergency Alert System)	
)	
Wireless Emergency Alerts)	PS Docket No. 15-91

OPPOSITION TO CTIA'S PETITION FOR RECONSIDERATION

**Telecommunications for the Deaf and Hard of Hearing, Inc.
National Association of the Deaf
Deaf and Hard of Hearing Consumer Advocacy Network
Hearing Loss Association of America
Association of Late-Deafened Adults, Inc.
Cerebral Palsy and Deaf Organization
National Association of State Agencies of the Deaf and Hard of Hearing
Gallaudet University Deaf/ Hard of Hearing RERC**

Telecommunications for the Deaf and Hard of Hearing, Inc. ("TDI"), through its undersigned counsel, National Association of the Deaf ("NAD"), Deaf and Hard of Hearing Consumer Advocacy Network ("DHHCAN"), Hearing Loss Association of America ("HLAA"), Association of Late-Deafened Adults, Inc. ("ALDA"), Cerebral Palsy and Deaf Organization ("CPADO"), National Association of State Agencies of the Deaf and Hard of Hearing ("NASADHH") and Gallaudet University Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing ("DHH-RERC"), (collectively "Consumer Groups and DHH-RERC") hereby respectfully submit these reply comments in response to CTIA's Petition for Reconsideration ("Petition") in the above-referenced proceeding.¹ Consumer

¹ Petition for Reconsideration, CTIA, *In the Matters of Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System and Wireless Emergency Alerts*, PS Docket Nos. 15-91, 15-94 (filed Dec. 1, 2016) ("Petition").

Groups and DHH-RERC appreciate that the Commission recognizes the criticality of ensuring accessible public safety alerts and urges the Commission to consider the perspective and needs of the deaf and hard of hearing community as it continues to refine the Wireless Emergency Alert (“WEA”) system.

I. BACKGROUND

In this proceeding, the Commission has aimed to expand efficacy of domestic public alert and warning systems. The Commission recently issued a Further Notice of Proposed Rulemaking and Report and Order (“Order”) promulgating rules for the WEA system and ordering carriers to support the transmission of embedded references such as Uniform Resource Locators (“URLs”) and phone numbers.² CTIA’s Petition requests that the Commission clarify certain aspects of the Order, including the definition of clickable links and that support for embedded references is not required for older devices. Moreover, CTIA requests that the Commission defer mandating actual implementation of support for embedded references until some unspecified date, following carrier completion of feasibility testing.

II. EMBEDDED REFERENCES ARE CRITICAL TO ACCESSIBILITY AND IMPLEMENTATION SHOULD NOT BE DELAYED ABSENT SUFFICIENT EVIDENCE

Multiple parties, including Consumer Groups and DHH-RERC, have advocated for enhancements to WEA including through the use of embedded references as necessary to public safety.³ CTIA asks to defer the Commission’s current time frame of one year from the publication of the Order, to some unspecified time. However, CTIA does not provide adequate

² *In the Matters of Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System and Wireless Emergency Alerts*, Report and Order and Notice of Proposed Rulemaking, PS Docket Nos. 15-94, 15-91 (rel. Sept. 29, 2016) (“*Order*”).

³ *See, e.g.*, Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., et al, Docket Nos. 15-91, 15-94 (filed May 9, 2016); *Ex Parte* Letter from Nassau County, New York, Office of Emergency Management, Docket Nos. 15-91, 15-94 (filed Dec. 8, 2016); Comments of Association of Public-Safety Communications Officials-International, Inc. (“APCO”), Docket Nos. 15-91, 15-94 (filed Dec. 8, 2016); Comments of APCO, Docket No. 15-91 (filed Jan. 13, 2016).

support for how long the implementation should be delayed, or why it should be delayed at all. Absent an adequate showing that implementation of the Commission's rules are technically infeasible, the Commission should not delay implementing this necessary aspect of WEA messages.

A. Embedded References are Critical to Public Safety, in Particular for Individuals with Accessibility Needs

The WEA platform is an essential tool for individuals who are deaf, hard of hearing, deafblind, and deaf with mobility issues. Consumer Groups and DHH-RERC acknowledge that the Commission is still considering how to make WEA messages more accessible, and commend the Commission for its efforts.⁴ By requiring support for embedded references such as URLs, the Commission has acknowledged that embedded URLs are an integral step to ensuring that important public safety messages are accessible to individuals who are deaf, hard of hearing, deafblind, and deaf with mobility issues.

Currently, WEA messages do not support American Sign Language ("ASL"), which is the primary language of the Deaf population.⁵ In fact, "[s]igned language is the most important instrument for communicating in the deaf world...[f]rom the day Deaf Americans enter the deaf-world, ASL becomes their primary language, and is, in itself, a big chunk of deaf-world knowledge."⁶ While an accurate census of ASL users in the United States has been difficult to obtain,⁷ ASL is the "language of a sizeable minority," with estimates ranging around 500,000

⁴ See, e.g., *Order* at paras. 136-37.

⁵ See, e.g., Diane Anderson and Judy Reilly, "The MacArthur Communicative Development for American Sign Language," 7:2 JOURNAL OF DEAF STUDIES AND DEAF EDUCATION 85 (Spring 2002), available at <http://jdsde.oxfordjournals.org/content/7/2/83.full.pdf> ("MacArthur Article"); HARLAN LANE ET AL., A JOURNEY INTO THE DEAF-WORLD (1996) ("LANE"); "Sign Language", WORLD FEDERATION OF THE DEAF, available at <https://wfdeaf.org/human-rights/crpd/sign-language> ("Deaf children learn to use sign language from their environment as hearing children learn spoken languages from their parents and others").

⁶ LANE at 6.

⁷ The Census Bureau does not include American Sign Language in its survey of languages spoken at home.

users in the United States alone.⁸ As such, embedded references can direct individuals who are deaf, hard of hearing, deafblind, and deaf with mobility issues to information specifically targeted to their needs, including but not limited to websites with support for ASL for people who use sign language. It could also lead to sites that provide important additional information in text, or maps or other visual information, for people who are hard of hearing or in fact anyone for whom the original short message just isn't enough to help them in an emergency situation.

B. CTIA Has Failed to Demonstrate Adequate Reason to Delay the Implementation Date

Consumer Groups and DHH-RERC echo opposition filed by the Association of Public-Safety Communications Officials-International, Inc. ("APCO"), which point out that CTIA's concerns about potential network congestion are both vague and unsupported by evidence.⁹ CTIA asserts that the "record has demonstrated that compliance with embedded references for WEA Alert Messaging cannot be determined until standards are completed, followed by feasibility testing," yet fails to provide *where* this is demonstrated in the record, if at all.¹⁰ CTIA argues that network congestion may arise in the event feasibility testing is not completed.¹¹ However, as APCO notes and as the Commission has already concluded, not only has network congestion already been considered in the proceeding, but embedded references such as URLs may reduce network congestion.¹² Consumer Groups and DHH-RERC assert that given how critical embedded references are to public safety, the Commission should not defer their implementation without a technically-grounded showing that doing so is absolutely necessary.

⁸ Mitchell, Ross E., et al. "How many people use ASL in the United States? Why estimates need updating." *Sign Language Studies* 6.3 (2006): 306-335.

⁹ Comments of APCO, PS Docket Nos. 15-91, 15-94 (filed January 3, 2017) ("APCO Comments").

¹⁰ Petition at 3.

¹¹ *Id.*

¹² *Order* at paras. 27, 30-31, APCO Comments at 2-3.

C. Any Implementation Delay Must be Time-Limited

Although CTIA asks for a deferral of a specific Commission deadline, it does not propose an alternative deadline or suggest a concrete time frame by which implementation can be guaranteed. Should the Commission grant CTIA a deferral, Consumer Groups and DHH-RERC request that any such deferral be sufficiently time-limited to ensure adequate implementation of embedded references in WEA messages. The Commission has previously rejected a time-limited request to delay accessibility features that it deemed too long, finding that the delay was contrary to the public interest out of concern over “the harm to consumers with disabilities that might result from the denial of access to [advanced communications technologies] for so long a duration.”¹³ Here, the technology in question – public safety alert messages – is even more critical to consumers who are deaf, hard of hearing, deafblind, and deaf with mobility issues. An indefinite delay in ensuring accessibility to WEA messages would result in substantial harm and is inconsistent with the Commission’s mission.

III. IF THE COMMISSION ONLY REQUIRES SUPPORT FOR “NEW” DEVICES, IT MUST FIRST DEFINE WHAT A NEW DEVICE IS

CTIA also asks the Commission to clarify that only “new, WEA-capable devices,” rather than “existing, legacy wireless devices in the marketplace that do not have the ability to support clickable links”, are required to support embedded references.¹⁴ Consumer Groups and DHH-RERC agree that devices which are not capable of receiving WEA messages at all are unlikely to have the technical capability of receiving WEA messages with support for embedded references. However, to the extent the Commission decides to exclude a class of mobile devices from its requirement for support for embedded references, Consumer Groups and DHH-RERC urge the

¹³ *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, 27 FCC Rcd 12970 (rel. Oct. 15, 2012) at 12986, 12991.

¹⁴ Petition at 9.

Commission to lay out a technical definition for the excluded devices based on a sufficient showing that those devices are in fact unable to support embedded references.

IV. CONCLUSION

Consumer Groups and DHH-RERC respectfully request Commission to deny CTIA's petition and require actual implementation of embedded references by its original date of November 1, 2017. In the event that the Commission finds a deferral is warranted, Consumer Groups and DHH-RERC agree with APCO that any such deferral should include a specific timeline for testing such that a deadline exists for ensuring implementation of WEA enhancements. Consumer Groups and DHH-RERC additionally request that should the Commission limit support for embedded references to "new" mobile devices, it define "new" after reviewing technical parameters for whether "old" mobile devices are truly incapable of supporting embedded references. Consumer Groups and DHH-RERC submit that deferring or limiting implementation of support for embedded references absent a sufficient showing of necessity to do so is inconsistent with the Commission's overarching public interest goals in this proceeding and would hinder the efficacy of public safety alerts for individuals who are deaf, hard of hearing, deafblind, and deaf with mobility issues.

Respectfully submitted,

/s/ Tamar Finn

Tamar Finn

Ronald Del Sesto, Jr.

Catherine Kuersten

MORGAN, LEWIS & BOCKIUS LLP

2020 K Street, N.W.

Washington, DC 20006

(202) 373-6000

*Counsel to Telecommunications for the Deaf
and Hard of Hearing, Inc*

Claude L. Stout, Executive Director
Telecommunications for the Deaf and Hard of Hearing, Inc.
8630 Fenton Street, Suite 121
Silver Spring, MD 20910-3803
(301) 563-9112 (Tel.)
cstout@tdiforaccess.org

Howard A. Rosenblum, Chief Executive Officer
Zainab Alkebsi, Policy Counsel
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910-3803
howard.rosenblum@nad.org
zainab.alkebsi@nad.org

Steve Larew, President
Association of Late-Deafened Adults, Inc.
8038 MacIntosh Lane, Suite 2
Rockford, IL 61107
(815) 332-1515 (Tel.)
(866) 402-2532 (Toll Free)
slarew@aol.com

Bernie Palmer, Vice Chair
Deaf and Hard of Hearing Consumer Advocacy Network
8630 Fenton Street, Suite 121
Silver Spring, MD 20910-3803
edgar.palmer@gallaudet.edu

Barbara Kelley
Executive Director
Hearing Loss Association of America
7910 Woodmont Avenue, Suite 1200
Bethesda, MD 20814
bkelly@hearingloss.org
lhamlin@hearingloss.org

Mark Hill, President
Cerebral Palsy and Deaf Organization
12025 SE Pine Street #302
Portland, Oregon 97216
president@cpado.org

Sherri Collins, Executive Director
National Association of State Agencies of the Deaf and Hard of Hearing (“NASADHH”)
Arizona Commission for the Deaf and Hard of Hearing
100 N. 15th Ave., Suite 104

Phoenix, AZ 85007
s.collins@acdhh.az.gov

Christian Vogler, PhD
Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing
(DHH-RERC)
Gallaudet University
800 Florida Ave NE, TAP - SLCC 1116
Washington, DC 20002
christian.vogler@gallaudet.edu